



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA-R06-OAR-2014-0846; FRL-9927-10-Region 6]

Approval and Promulgation of Implementation Plans; Texas;

Revisions to the State Implementation Plan; Stage I Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking a direct final action to approve revisions to the Texas State Implementation Plan (SIP) related to Stage I Regulations that were submitted by the State of Texas on November 12, 2014. The EPA evaluated the SIP submittal from Texas and determined these revisions are consistent with the requirements of the Clean Air Act (CAA). The EPA is approving this action under the federal CAA.

DATES: This direct final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives such comment, the

EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2014-0846, by one of the following methods:

- (1) www.regulations.gov: Follow the on-line instructions.
- (2) E-mail: Ms. Tracie Donaldson at donaldson.tracie@epa.gov.
- (3) Mail or Delivery: Ms. Tracie Donaldson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2014-0846. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> website is an “anonymous access” system, which means that the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If the EPA cannot read your comment due to technical

difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Tracie Donaldson, (214) 665-6633, donaldson.tracie@epa.gov. To inspect the hard copy materials, please schedule an appointment with Ms. Donaldson or Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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I. Background

A. CAA and SIPs

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). The NAAQS currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA-approved SIP provisions and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to the EPA for review and approval.

B. Why do we regulate VOCs?

Volatile Organic Compound is a term used to describe a class of chemicals that react in the atmosphere in the presence of sunlight to form ozone. Sources include vehicle exhaust,

gasoline vapors, oil-based paints and industrial operations. A regulatory definition of Volatile Organic Compounds can be found at 40 CFR 51.100(s). The definition in Texas can be found in 30 TAC 115.10. Oxygen in the atmosphere reacts with VOCs and Oxides of Nitrogen to form ozone, a key component of urban smog. Inhaling even low levels of ozone can trigger a variety of health problems including chest pains, coughing, nausea, throat irritation, and congestion. It also can worsen bronchitis and asthma. Exposure to ozone can also reduce lung capacity in healthy adults.

C. What is Stage I Vapor Recovery?

Capturing the vapors from the gasoline station storage tanks as tank-trucks fill these tanks, and returning the vapors to the tank-truck is commonly known as Stage I vapor recovery. The tank-truck then carries the vapors back to the bulk gasoline plant or terminal. To insure the vapors are not lost in transit, the Texas rules also include requirements that the gasoline tank-trucks be tested for vapor tightness. We are approving the vapor recovery requirements and the vapor tightness requirements.

D. SIP Revision Submitted on November 12, 2014

On September 10, 2014, Texas Commission on Environmental Quality (TCEQ) adopted revisions to 30 Texas Administrative Code (TAC) Chapter 115, Control of Air Pollution from Volatile Organic Compounds, Subchapter A. *Definitions* and Subchapter C. *Volatile Organic Compound Transfer Operations*. This review will determine if the changes to the Texas SIP are consistent with the requirements of the Clean Air Act and EPA's policy and guidance.

II. EPA's Evaluation

As detailed in the Technical Support Document (TSD) accompanying this action, the TCEQ submitted a SIP revision to the Stage I regulations found in 30 TAC 115, Subchapter A.

Definitions and Subchapter C. *Volatile Organic Compound Transfer Operations*. The TCEQ adopted amended sections 115.10, 115.221, 115.222, 115.224-115.227 and 115.229 of 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds and corresponding revisions to the state implementation plan. The revisions preserve existing Stage I testing requirements in the 1997 ozone nonattainment counties and specify Stage I testing requirements for gasoline dispensing facilities located in the 12 ozone nonattainment counties and 4 ozone maintenance counties that will be affected by the decommissioning of the Stage II vapor recovery equipment rule revision and in the 95 counties that are subject to the state Stage I rule but not Stage II requirements. The adopted revisions also establish testing requirements that are more consistent with federal Stage I testing in 40 CFR part 63, subpart CCCCCC and are more appropriate for Stage I facilities.

Previously, in separate actions, we found that Texas' Stage I regulations meet Reasonably Available Control Technology (RACT) requirements for the 1997 ozone standard in Dallas-Fort Worth area (January 14, 2009, 74 FR 1903) and for the Houston-Galveston-Brazoria area (April 2, 2013, 63 FR 19599). The current revisions update RACT where applicable for 1997 ozone nonattainment counties in Texas.

The revisions will enhance the EPA-approved SIP because they will not result in any loss in emission reductions, will become more enforceable with the test methods in place and will be more consistent with the federal Stage I testing requirements; therefore, we are approving them into the Texas SIP.

III. Final Action

For the reasons stated above and in the TSD, the EPA is taking direct final action to approve revisions to the Texas SIP pertaining to Stage I regulations at 30 TAC, Chapter 115, Subchapter A: *Definitions*, Section 115.10 and Subchapter C, Division 2: *Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities*, Sections 115.221, 115.222, 115.224-115.227 and 115.229, adopted on September 10, 2014, and submitted as revisions to the Texas SIP on November 12, 2014.

We are approving the revisions to the Texas SIP under section 110 of the Act. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this direct final rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Texas Stage I requirements described in the Final Action section above. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 22, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. In § 52.2270(c), the table titled “EPA Approved Regulations in the Texas SIP” is amended by adding, in sequential order, the entry for section 115. 221; and revising the entries for sections 115.10, 115.222, 115.224 through 115.227, and 115.229 to read as follows:

§ 52.2270 Identification of plan.

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(c) * * *

EPA Approved Regulations in the Texas SIP

State citation	Title/ subject	State approval/sub mittal date	EPA approval date	Explanation
* * * * *	* * *			
Chapter 115 (Reg 5) – Control of Air Pollution From Volatile Organic Compounds				
Subchapter A - Definitions				
115.10	Definitions	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
* * * * *	* * *			
Subchapter C – Volatile Organic Compound Transfer Operations				
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Division 2: Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities				
115.221	Emission Specifications	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
115.222	Control Requirements	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
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State citation	Title/ subject	State approval/sub mittal date	EPA approval date	Explanation
115.224	Inspection Requirements	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
115.225	Testing Requirements	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
115.226	Recordkeeping Requirements	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
115.227	Exemptions	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
115.229	Counties and Compliance Schedules	9/10/2014	[Insert date of FR publication] [Insert FR citation]	
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[FR Doc. 2015-10122 Filed: 4/29/2015 08:45 am; Publication Date: 4/30/2015]